

(2) The applicant shall be notified of the situation and requested to provide such information and documents as may be desired in support of the request for discharge review. A period of not less than 60 days shall be allowed for such documents to be submitted. At the expiration of this time period, the review may be conducted with information available to the NDRB.

(3) The presumption of regularity in the conduct of government affairs may be applicable in instances of unavailable records depending on the circumstances of the case. (See § 724.211)

(b) [Reserved]

[50 FR 10943, Mar. 19, 1985, as amended at 65 FR 62616, Oct. 19, 2000]

§ 724.211 Regularity of government affairs.

There is a presumption of regularity in the conduct of governmental affairs. This presumption can be applied in any review unless there is substantial credible evidence to rebut the presumption.

§ 724.212 Availability of records.

(a) Before applying for discharge review, potential applicants or their designated representatives may obtain copies of their military personnel records by submitting a General Services Administration Standard Form 180, "Request Pertaining to Military Records," to the National Personnel Records Center (NPRC), 9700 Page Boulevard, St. Louis, MO 63132. Once the application for discharge review (DD Form 293) is submitted, an applicant's military records are forwarded to the NDRB where they cannot be reproduced. Submission of a request for an applicant's military records, including a request under the Freedom of Information Act (5 U.S.C. 552) or Privacy Act (5 U.S.C. 552a) after the DD Form 293 has been submitted, shall result automatically in the temporary suspension of processing of the application for discharge review until the requested records are sent to an appropriate location for copying, are copied, and are returned to the headquarters of the NDRB. Processing of the application shall then be resumed at whatever stage of the discharge review process is practicable. Applicants are encouraged to submit any request for their mili-

tary records before applying for discharge review rather than after submitting DD Form 293 to avoid delays in processing of applications and scheduling of reviews. Applicants and their counsel may also examine their military personnel records at the site of their scheduled review before the hearing. The NDRB shall notify applicants of the dates the records are available for examination in their standard scheduling information.

(b) If the NDRB is not authorized to provide copies of documents that are under the cognizance of another government department, office, or activity, applications for such information must be made by the applicant to the cognizant authority. The NDRB shall advise the applicant of the mailing address of the government department, office, or activity to which the request should be submitted.

(c) [Reserved]

(d) The NDRB may take steps to obtain additional evidence that is relevant to the discharge under consideration beyond that found in the official military records or submitted by the applicant, if a review of available evidence suggests that it would be incomplete without the additional information, or when the applicant presents testimony or documents that require additional information to evaluate properly. Such information shall be made available to the applicant, upon request, with appropriate modifications regarding classified material.

(1) In any case heard on request of an applicant, the NDRB shall provide the applicant and counsel or representative, if any, at a reasonable time before initiating the decision process, a notice of the availability of all regulations and documents to be considered in the discharge review, except for documents in the official personnel or medical records and any documents submitted by the applicant. The NDRB shall also notify the applicant or counsel or representative: (a) of the right to examine such documents or to be provided with copies of the documents upon request; (b) of the date by which such requests must be received; and (c) of the opportunity to respond within a reasonable period of time to be set by the NDRB.